

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

District Of South Dakota, Southern Division

UNITED STATES OF AMERICA

v.

Black Hills Nanosystems Corporation

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:18CR40100-4

USM Number: N/A

Randall S. Luskey / Timothy W. Billion
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Information.☐ pleaded nolo contendere to count(s)
which was accepted by the Court.☐ was found guilty on count(s)
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1349	Conspiracy to Commit Wire Fraud	2016	1

The defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States attorney of material changes in economic circumstances.

01/14/2019

Date of Imposition of Judgment

Karen E. Schreier
Signature of JudgeKaren E. Schreier, United States District Judge
Name and Title of Judge*January 14, 2019*
Date

EXHIBIT

5

tabbies

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary PenaltiesDEFENDANT: Black Hills Nanosystems Corporation
CASE NUMBER: 4:18CR40100-4**CRIMINAL MONETARY PENALTIES**

You must pay the total criminal monetary penalties under the Schedule of Payments set below.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$400	Not Applicable	Waived	\$1,084,418.60

- ☐ The determination of restitution is deferred until
An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

- ☐ You must make restitution (including community restitution) to the following payees in the amount listed below.

If you make a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
National Science Foundation (NSF)	\$812,656.00	\$812,656.00	
National Aeronautics and Space Administration (NASA)	\$124,942.77	\$124,942.77	
Department of Energy (DOE)	\$146,819.83	\$146,819.83	

TOTALS	<u>\$1,084,418.60</u>	<u>\$1,084,418.60</u>
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- ☐ Restitution amount ordered pursuant to Plea Agreement \$ _____
- ☐ You must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the Judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The Court determined that you do not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AO245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 6 — Schedule of Payments

DEFENDANT: Black Hills Nanosystems Corporation
CASE NUMBER: 4:18CR40100-4

SCHEDULE OF PAYMENTS

Having assessed your ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$1,084,818.60 due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____, to commence _____ (e.g., 30 or 60 days) after the date of this Judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____, to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment of the total restitution and other criminal monetary penalties shall be due in regular quarterly installments of 50% of the deposits in your inmate trust account while the you are in custody, or 10% of your inmate trust account while serving custody at a Residential Reentry Center. Any portion of the monetary obligation(s) not paid in full prior to your release from custody shall be due in monthly installments of \$ _____, such payments to begin _____ days following your release.
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

You shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☒ Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
Wallace Tang 4:18CR40100-01 \$1,084,418.60
Laserlith Corporation 4:18CR4100-03 \$1,084,418.60
Blue Sky Engineering, Incorporated 4:18CR40100-05 \$1,084,418.60
- ☐ You shall pay the cost of prosecution.
- ☐ You shall pay the following court cost(s):
- ☐ You shall forfeit your interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.